

REMARKS

This communication is submitted in response to the Office Action dated July 1, 2004. Claims 1, 4, 8, 9, 14, 17, and 19 have been amended and claim 22 has been cancelled. After entry of this amendment, claims 1-21 are pending in the application. Reconsideration of the application as amended is respectfully requested. Please note that Applicant is submitting U.S. Patent No. 5,033,011 in a Supplemental Information Disclosure Statement with this amendment. U.S. Patent No. 5,033,011 is an English version of EP 0 426524A2 cited by the Examiner.

Claims 1-3, 6, 7, 9-13, 15, 16, and 18-21 stand rejected under 35 U.S.C. § 102(b) as anticipated by Alaurent (EP 0 426524A2). Claim 1 as amended recites, that the mounting brackets are rotationally aligned with one another about the rod axis. The bearing surfaces of the respective mounting brackets are recited as facing generally outwardly opposite one another and flexing inward to bear substantially flush against opposed surfaces of a window opening when the tension rod is installed.

Alarent fails to disclose or suggest a pair of brackets that flex inward to bear flush against opposed surfaces of a window opening when a tension rod is installed. Alaurent teaches an anti-slip friction pellet 17 that is positioned between a mounting bracket 14 and the window frame 9 (see Fig. 1). The flat portion of the bracket 14 cannot lie flush against the window frame 9 because the anti-slip friction pellet 17, positioned between the frame and bracket, interferes with such positioning. Furthermore, Alaurent, in U.S. Patent No. 5,011,030 beginning in column 3, line 31, discloses that a fastening member 13 is rigid and has a first flat portion 14 extending towards the window pane 6 when member 13 is mounted on frame 9. The rigid member 13 includes a first flat portion 14 extending towards the window pane 6 when the member 13 is mounted on a frame 9. The rigid member 13 cannot flex by definition because it is rigid.

Therefore, Alaurent does not anticipate or render obvious claim 1 or its corresponding dependent claims. Reconsideration and withdrawal of the rejection of claim 1 are respectfully requested.

Claim 9 has been amended to recite that the mounting brackets connect to the rod interface at an inwardly biased angle. The bearing surfaces of the respective mounting brackets again are recited as facing generally outwardly opposite one another to bear against opposed surfaces of a window opening when the tension rod is installed. Alaurent fails to disclose or suggest an inwardly biased bracket connected to a rod interface. Fig. 1 of the references shows that the upper end portion 16a of the bracket 15 connects at a perpendicular angle relative to the rod 3. There is no teaching or suggestion that the interface is inwardly angled or that the brackets are inwardly angled relatively to a rod interface. As such, claim 9 is not anticipated or rendered obvious by Alaurent and, thus, is in condition for allowance. Reconsideration and withdrawal of the rejection with respect to claim 9 are respectfully requested.

Claim 19 as amended recites a sharp pointed tang extending from adjacent each of the bearing surfaces and generally perpendicular to the respective bearing surface. The step of releasing is recited as causing each tab to embed in one of the opposed and facing surfaces of the window opening. The Examiner found this limitation to be allowable in claims 8 and 17. As such, claim 19 is submitted to be in condition for allowance. Reconsideration and withdrawal of the rejection with respect to claim 19 and its corresponding dependent claims are respectfully requested.

Claims 4, 8, 14 and 17 were objected to, but considered allowable if rewritten in independent form. Claims 4, 8, 14, and 17 have been rewritten to include all the limitations of the base and intervening claims to place the claims in allowable form. Further favorable action is respectfully requested. It should be noted that claim 22 was not rejected or objected to by the Examiner. Claim 22 recited a sharp pointed tang similar to allowable claims 8 and 17. Therefore, claim 19 has been amended to include the allowable limitation recited in claim 22 and claim 22 has been cancelled.

It is respectfully submitted this Amendment traverses and overcomes all of the objections and rejections to the application as originally filed. It is further submitted that this Amendment has antecedent basis in the application as originally filed, including the specification, claims, and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the application as amended is requested. It is

respectfully submitted that this Amendment places the application in suitable condition for allowance; notice of which is requested.

If the Examiner believes that prosecution of this application can be expedited by way of an Examiner's amendment or further communication, the Examiner is invited to contact the applicant's attorney at the telephone number listed below.

Dated: September 20, 2004

Respectfully submitted,

By Matthew D. Fair
Matthew D. Fair
Registration No.: 51,662
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant